

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Unlicensed Collection Agency
3 Activity of:

No. 17F-BD032-SBD

4 **FINANCIAL CREDIT SERVICE, INC. d/b/a**
5 **ASSET RECOVERY ASSOCIATES and**
6 **BRUCE COHEN, PRESIDENT**

**ORDER TO CEASE AND DESIST;
NOTICE OF OPPORTUNITY FOR
HEARING; CONSENT TO ENTRY OF
ORDER**

1919 South Highland Avenue, Suite 225A
Lombard, IL 60148

Respondents.

8 Under Arizona Revised Statutes ("A.R.S.") § 6-137, the Superintendent of the Arizona
9 Department of Financial Institutions ("Superintendent") issues this Cease and Desist Order
10 ("Order"), containing the following Findings of Fact and Conclusions of Law, against Financial
11 Credit Service, Inc. d/b/a Asset Recovery Associates ("Respondent Company") and Bruce Cohen
12 ("Mr. Cohen") President of Respondent Company (collectively, "Respondents").

13 Under A.R.S. Titles 6 and 41 and Chapter 4 of the Arizona Administrative Code
14 ("A.A.C."), Respondents have the right to request a hearing to contest the allegations set forth
15 in this Order. The Request for Hearing shall be filed with the Arizona Department of Financial
16 Institutions (the "Department"), under A.R.S. § 6-137(D), within **thirty (30) days** of service of this
17 Order and **shall provide a concise statement of the reason(s) for appeal** in accordance with A.R.S.
18 § 41-1092.03(B).

19 Under A.R.S. §§ 41-1092.01(D) and 41-1092.03(B), any person may appear on his or her
20 own behalf or by counsel. If Respondents are represented by counsel, the information required by
21 A.R.S. § 41-1092.03(B) shall be included in the Request for Hearing. Upon the filing of a Request
22 for Hearing, the Department shall issue a Notice of Hearing scheduling the matter for an
23 administrative hearing before the Office of Administrative Hearings in accordance with A.R.S. § 41-
24 1092.05.

25 Persons with disabilities may request reasonable accommodations such as interpreters,
26 alternative formats, or assistance with physical accessibility. Requests for special accommodations

1 must be made at least seven (7) days before the administrative hearing. To request accommodations
2 call the Office of Administrative Hearings at (602) 542-9826.

3 **As a party to this proceeding you have the right to request an informal settlement**
4 **conference (“ISC”), under A.R.S. § 41-1092.06.** To request an ISC you must file a written request
5 with the Department no later than **twenty (20) days** before a scheduled hearing. The ISC will be
6 held within **fifteen (15) days** after receipt of your request. At the ISC, a person with the authority to
7 act on behalf of the Department will be present (the “Department Representative”). Likewise,
8 Respondents must have a person with authority to act at the ISC. Please note that in requesting an
9 ISC, you waive any right to object to the participation of the Department Representative in the final
10 administrative decision of this matter. Furthermore, any written or oral statements made by the
11 Department, Respondents, or their representatives at an ISC, including written documentation
12 created or used solely for purposes of settlement negotiations, is inadmissible in any subsequent
13 administrative or judicial hearing. *See* A.R.S. § 41-1092.06. Conversely, any written or oral
14 statements made by any party outside an ISC may be admissible in any subsequent hearing.

15 **If Respondents do not request a hearing, this Order shall become final.** If Respondents
16 request a hearing, the purpose of the hearing shall be to determine if grounds exist for: (1) the
17 issuance of this Order, under A.R.S. § 6-137, directing Respondents to cease and desist from the
18 prohibited acts, practices, or transactions and to take the necessary affirmative actions to correct
19 those prohibited acts, practices, or transactions, within the time prescribed by the Superintendent; (2)
20 the imposition of a civil monetary penalty, under A.R.S. § 6-132; (3) an order to pay restitution of
21 any fees earned in violation of A.R.S. § 32-1001, *et seq.*; and (4) an order or any other necessary or
22 proper remedy to enforce the statutes and rules regulating a collection agency business, under A.R.S.
23 §§ 6-123 and 6-131.

24 Questions about this Cease and Desist Order should be directed to Assistant Attorney
25 General Roberto Pulver, 1275 West Washington Street, Phoenix, Arizona 85007, telephone number
26 (602) 542-7720 or by e-mail at Roberto.Pulver@azag.gov.

1 **JURISDICTION AND PARTIES**

2 1. The Department was created and enabled to administer certain laws and regulations
3 of the State of Arizona by protecting the public interest through the licensure and regulation of
4 Arizona collection agencies. A.R.S. §§ 6-101, -110, -121, -139.

5 2. On July 13, 2015, Respondent Company, an Illinois corporation, registered as a
6 foreign corporation with the Arizona Corporation Commission.

7 3. On February 4, 2016, Respondents registered Asset Recovery Associates as
8 Respondent Company's trade name with the Arizona Secretary of State.

9 4. Mr. Cohen is and was the President of Respondent Company at all times material
10 herein.

11 5. Respondent Company's business is that of soliciting claims for collection and the
12 collection of claims owed, due, or asserted to be owed, or due, within the meaning of A.R.S. § 32-
13 1001(2)(a).

14 **FINDINGS OF FACT**

15 6. The Department conducted an investigation of Respondents due to complaints it
16 received. During its investigation these facts and findings were disclosed:

17 a. On December 28, 2016, the Arizona Attorney General's Office forwarded a
18 complaint it received from Mary S. ("Ms. S."), an Arizona resident, to the
19 Department. Ms. S. complained that Respondent Company attempted to collect a
20 debt against her, though she owed no such debt.

21 b. On November 28 and November 29, 2016, Ms. S. received several telephone calls
22 from Respondent Company's agent. The agent stated during the telephone calls
23 that Ms. S. owed a debt to a bank in the amount of \$13,443.00, and Ms. S. ignored
24 Respondent Company's letter mailed to her in September 2016 to settle the debt.

25 c. Due to Ms. S.'s alleged inaction to settle the debt, Respondent Company was
26 prepared to file a lawsuit for the entire debt against her unless she settled the debt

1 immediately. The agent during the phone calls offered Ms. S. the opportunity to
2 settle the debt for the amount of \$4,698.62. Ms. S. asked for "some proof and
3 dates" that could confirm the agent's allegations, but Respondent Company failed
4 to provide any documentation to Ms. S. validating the alleged debt was owed.

5 d. On January 4, 2017, the Department informed Respondents by mail of Ms. S.'s
6 complaint and the Department's concern that Respondents were conducting
7 unlicensed collection agency activity in Arizona. The Department requested that
8 Respondents respond to Ms. S.'s complaint and the Department's questions as to
9 Respondents' unlicensed collection agency activity. Respondents failed to provide
10 any response to the Department.

11 e. Respondent Company is an Illinois domestic corporation which caused the
12 Department to inquire of the Illinois Better Business Bureau ("BBB") whether
13 consumers had filed complaints against the company. The Illinois BBB disclosed
14 that 160 consumers complaint had been filed with them against Respondent
15 Company from 2014 to the present. Several of those complaints claimed that
16 Respondent Company used abusive debt collection tactics and methods, which
17 included threats of filing a lawsuit to intimidate consumers to settle debts. From
18 those BBB complaints, three percent (3%) of the complaints were filed by Arizona
19 residents.

20 f. The BBB complaints from Arizona residents were from 2014 through 2016,
21 showing that Respondents attempted to collect delinquent debts from Arizona
22 residents without having an Arizona collection agency license. The BBB
23 complaints from Arizona were sent to Respondents for a response and they
24 provided a response to each complaint.

25 g. In 2015, the Department conducted an investigation against Respondents due to an
26 Arizona resident's complaint. Jerry B. ("Mr. B.") complained that Respondent

1 Company contacted him to collect on a debt. On September 24, 2015, Mr. B.
2 received a telephone call from Respondent Company's agent stating that he owed
3 \$6,000.00 to Providian Bank, and that a lawsuit had been filed against him for the
4 money he owed. Mr. B. asked the agent for records validating the debt, but the
5 agent stated "they cannot provide that."

6 h. On October 7, 2015, the Department informed Respondents by mail of Mr. B.'s
7 complaint and the Department's investigation of Respondents' unlicensed
8 collection agency activity in Arizona. The Department requested that Respondents
9 respond to the complaint and the Department's questions as to Respondents'
10 unlicensed collection agency activity. Respondents provided two written responses
11 to the Department, both dated October 27, 2015.

12 i. In Respondents' first October 27, 2015 letter, Respondent Company's compliance
13 manager, Ben Ward ("Mr. Ward"), admitted that Respondent Company's agent
14 contacted Mr. B., but also stated that the contact occurred due to a software
15 malfunction, and that Mr. B.'s collection account will be closed and his information
16 deleted from Respondent Company's database.

17 j. In that same letter to the Department, Mr. Ward stated that Respondent Company
18 "has submitted and is in the process of obtaining licensure in the state of Arizona."
19 Mr. Ward further affirmed in the letter, that Respondents "shall not attempt to
20 collect from any resident of Arizona until a time at which the state grants us a
21 license to do so."

22 k. Respondent Company's October 2015 license application disclosed that it was
23 licensed as a collection agency in eighteen jurisdictions. Those jurisdictions were:
24 Arkansas, Connecticut, Delaware, District of Columbia, Florida, Illinois, Indiana,
25 Iowa, Louisiana, Maine, Maryland, Minnesota, New York City, Ohio, Oregon,
26 Tennessee, Utah, and Washington. Respondent Company's licensures in all these

1 jurisdictions lead the Department to believe that this seasoned company was serious
2 about being licensed in Arizona.

3 1. The Department received Respondent Company's license application for a
4 collection agency and believed in good faith the company's explanation that the
5 unlicensed collection activity was due to a software malfunction and closed the
6 investigation against Respondents.

7 m. Respondent Company never completed its license application to obtain its
8 collection agency license. Subsequently, the Department closed the application on
9 September 2016. The Department did send follow-up correspondence to
10 Respondents to have the license application completed, but Respondent Company
11 never responded.

12 n. In 2014, the Department conducted an investigation against Respondents due to
13 complaints from four Arizona residents. Respondent Company contacted these
14 residents to collect their delinquent debts.

15 o. In response to those complaints and the Department's investigation, Respondents
16 filed a collection agency application for Respondent Company in January 2014.
17 But Respondents' failed to complete Respondent Company's license application
18 and the Department closed the application in March 2014.

19 p. The Department's investigation as to the four complaints resulted in no further
20 action against Respondent Company or Mr. Cohen.

21 7. Respondents' practice of submitting collection agency license applications to the
22 Department only when they are being investigated, and not completing those applications, shows
23 Respondents' unwillingness to be licensed and to adhere to Arizona's collection agency statutes.

24 8. Respondents are not and were not, at any times material herein, authorized to transact
25 business in Arizona as a collection agency within the meaning of A.R.S. § 32-1001 *et seq.*

26 9. Respondents have unlawfully conducted business as a collection agency in Arizona,

1 and collected or attempted to collect debts from Arizona residents without being licensed by the
2 Department.

3 10. Respondents are not exempt from licensure as a collection agency within the meaning
4 of A.R.S. § 32-1004.

5 11. These Findings of Fact shall also serve as Conclusions of Law.

6 **CONCLUSIONS OF LAW**

7 12. Under A.R.S. § 32-1001 *et seq.*, the Superintendent has the authority and the duty to
8 regulate all persons engaged in the collection agency business and to enforce the statutes, rules, and
9 regulations relating to collection agencies.

10 13. Respondents' conduct as alleged above constitutes a violation of the statutes and rules
11 governing a collection agency and its activities as follows:

12 a. A.R.S. § 32-1021(A) by failing to make an original application to the Department
13 upon forms prescribed by the Superintendent before conducting collection agency
14 activity; and

15 b. A.R.S. § 32-1055(A) by conducting collection agency activity in Arizona without
16 having first applied for and obtained a collection agency license under A.R.S. § 32-
17 1001 *et seq.*

18 14. Respondents have unlawfully conducted business as a collection agency in Arizona,
19 and collected or attempted to collect debt from Arizona residents without being licensed by the
20 Department.

21 15. Under A.R.S. § 6-132, Respondents' violations of the aforementioned statutes are
22 grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation per
23 day.

24 16. The violations set forth above constitute grounds for: (1) the issuance of this Order,
25 under A.R.S. § 6-137, directing Respondents to cease and desist from the prohibited acts, practices,
26 or transactions and to take the appropriate affirmative actions to correct those prohibited acts,

1 practices, or transactions, within the time prescribed by the Superintendent; (2) the imposition of a
2 civil monetary penalty, under A.R.S. § 6-132; and (3) an order or any other remedy necessary or
3 proper for the enforcement of statutes and rules regulating collection agencies, under A.R.S. §§ 6-
4 123 and 6-131.

5 **ORDER**

6 17. **Respondents shall immediately stop the violations** set forth in the Findings of Fact
7 and Conclusions of Law.

8 18. **Respondents shall immediately stop all collection agency activity in Arizona** until
9 such time as Respondents have obtained a collection agency license from the Superintendent as
10 prescribed by A.R.S. § 32-1021.

11 19. **Respondents shall immediately pay to the Department a civil money penalty in**
12 **the amount of fifteen thousand dollars (\$15,000.00).** Respondent Company and Mr. Cohen are
13 jointly and severally liable for payment of the civil money penalty.

14 20. Respondents shall comply with all Arizona statutes and rules regulating Arizona
15 collection agencies, under A.R.S. § 32-1001 *et seq.*

16 21. The provisions of this Order shall be binding upon Respondents, their employees,
17 agents, representatives, and all other persons participating in the business affairs of Respondents, as
18 to debt collection activities in Arizona.

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22. **This Order shall become effective upon service**, and shall remain effective and enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated, or set aside by a court of competent jurisdiction or by the Superintendent.

Robert D. Charlton, Superintendent
Arizona Department of Financial Institutions

NOTICE

A. Respondents acknowledge that they have been served with a copy of the foregoing Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read it, are aware of their right to an administrative hearing in this matter, and have knowingly, intelligently, and voluntarily waived that right.

1 voluntarily.

2 E. Respondents agree to immediately cease and desist from engaging in the prohibited
3 conduct and/or practices set forth above in the Findings of Fact and Conclusions of Law.

4 F. Respondents acknowledge that the acceptance of this Consent to Entry of Order by
5 the Superintendent is solely to settle this matter and does not preclude this Department or any other
6 agency of this state or subdivision thereof from instituting other proceedings as may be appropriate
7 now or in the future.

8 G. Respondents acknowledge and agree that failure to correct the violations or practices
9 set forth above in this Order, or any future findings of repeat violations, may result in disciplinary
10 action that may include a greater civil money penalty.

11 H. Bruce Cohen represents that he is the President of Respondent Company and is
12 authorized by Financial Credit Service, Inc. d/b/a Asset Recovery Associates to consent to the entry
13 of this Order on its behalf.

14 I. Respondents waive all rights to seek any administrative or judicial review or
15 otherwise to challenge or contest the validity of this Cease and Desist Order before any court of
16 competent jurisdiction.

17 DATED this 9TH day of MARCH, 2017

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19 By: 

20 Bruce Cohen, President
21 Financial Credit Service, Inc.
22 d/b/a Asset Recovery Associates
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1 **ORIGINAL** of the foregoing filed
this 28 day of February, 2017, in the office of:

2 Robert D. Charlton, Superintendent
3 Arizona Department of Financial Institutions
4 ATTN: June Beckwith
5 2910 N. 44th Street, Suite 310
6 Phoenix, Arizona 85018
7 JBeckwith@azdfi.gov

8 **COPY** of the foregoing mailed/delivered same date to:

9 Roberto Pulver, Assistant Attorney General
10 Office of the Attorney General
11 1275 West Washington
12 Phoenix, Arizona 85007
13 Roberto.Pulver@azag.gov

14 Tammy Seto, Division Manager
15 Steven McElwain, Senior Examiner
16 ATTN: Linda Lutz
17 Arizona Department of Financial Institutions
18 2910 N. 44th Street, Suite 310
19 Phoenix, Arizona 85018
20 LLutz@azdfi.gov

21 **COPY** mailed same date by
22 Certified Mail, Return Receipt Requested, to:

23 Bruce Cohen, President
24 Financial Credit Service, Inc.
25 d/b/a Asset Recovery Associates
26 1919 South Highland Avenue, Suite 225A
Lombard, IL 60148
Respondents

Incorp Services, Inc., Statutory Agent
2338 West Royal Palm Road, Suite J
Phoenix, AZ 85021
Statutory Agent for Respondent Company

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